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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MOHAMMAD PEYRAVIAN, ALLEN ROGINSKY,
NEVENKO ZUNIC, and STEPHEN M. MATYAS JR.

Appeal 2008-0311
Application 09/458,922
Technology Center 2100

Decided: June 30, 2008

Before LANCE LEONARD BARRY, HOWARD B. BLANKENSHIP, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 13 through 18. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants claim a method for time stamping a digital document.
Claim 13 is reproduced below.

13. A computer-implemented method for time stamping a document comprising:

creating a time stamp receipt including identifying data associated with said document and a time indication;

transmitting said time stamp receipt to an outside agency; and

cryptographically binding at said outside agency said identifying data and said time indication.

The Examiner relies on the following reference as evidence of unpatentability.

Levine US 6,393,566 B1 May 21, 2002
Claims 13-18 stand rejected under 35 U.S.C. 102(e) as being anticipated by Levine.

Claims 1-12 and 19-30 have been allowed.

Appellants argue claims 13 through 18 as a single group in the Appeal Brief. Accordingly, we will decide the appeal on the basis of independent claim 13 alone. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Levine describes a time-stamp service that includes a public machine 10 (Fig. 1) connected to the Internet, which provides a time-stamp for received mail. Private machine 13 connects to public machine 10 via a network interface 14 and cable link 14A. The private machine serves as a signature server, storing a private key used for generating the signature of the authenticating agency. The private machine obtains the time-stamped incoming mail, may perform a hashing function, and signs the hashed

document and time-stamped representation. The representation with the signature is returned to the public machine. Levine col. 5, ll. 39-65. The combination of a verified signature and a matching public key guarantees the authenticity of the time-stamp. *Id.*, ll. 12-23.

Levine's Figure 2 shows the process associated with public machine 10. Figure 3 shows the process associated with private machine 13. Public machine 10 receives mail from the Internet and assigns a unique process number to the received message. Private machine 13 opens the link 14A to public machine 10 via a private network protocol. Private machine 13 receives a time-stamped message and performs a hash algorithm on the message and time-stamp, returning the hash code for the time-stamped message together with the authenticating signature to public machine 10. Levine col. 6, ll. 9-52. Levine describes an alternative embodiment, however, in which the hash algorithm may be performed by public machine 10. *See, e.g.*, Levine col. 5, ll. 46-47; col. 7, ll. 15-16.

The Examiner appears to read the "identifying data" of claim 13 on the assigned "process number" (Ans. 4); i.e., the process number assigned by public machine 10 to the received message. The message is stored in a file "whose name is derived from the process number." Levine col. 6, ll. 12-15. We do not find any clear indication in the reference that this "number" is transmitted to private machine 13. However, the final step of claim 13 recites "cryptographically binding at said outside agency said identifying data and said time indication."

As we have noted, Levine discloses that a hashed version of the received document and the time stamp may be transmitted to private machine 13. In that case, the hashed version of the received document, or the “identifying data associated with said document,” *is* transmitted to private machine 13, along with the “time indication.” Private machine 13 “cryptographically binds” the identifying data and the time indication, after reception, by adding a digital signature using a private key. Our reading of “cryptographically binding” is consistent with Appellants’ method described at page 8, lines 9 through 12 of the Specification.

In any event, Appellants’ arguments in the briefs are based on the position that the recitation “outside agency” distinguishes over the applied prior art. The Examiner makes clear that the “outside agency” is deemed to read on private machine 13 of Levine. In Appellants’ view, public machine 10 and private machine 13 together constitute an authenticating agency, or “outside agency.” By that interpretation, Levine does not describe transmitting the time stamp receipt to “an outside agency,” since the time stamp receipt is generated by public machine 10.

The Examiner posits that public machine 10 and private machine 13 are separated by a network. Since the private machine is physically separated from the public machine, the private machine is an “outside agency.” (Ans. 6.)

Appellants respond that the Examiner has not supported the proffered definition with any citation to the intrinsic record. According to Appellants, a dictionary defines “agency” as a “business or service that is authorized to

act for others.” (Reply Br. 2.) Further, according to Appellants, the Specification is replete with references to a Time Stamping Authority (TSA) that functions as a trusted agent to authenticate documents. In the context of the Specification and claims, according to Appellants, the “outside agency” is the agency that performs authentication. (*Id.*, 2-3.)

Appellants have not pointed to any clear definition in the Specification for “outside agency.” We observe, further, that instant claim 13 does not contain the term TSA or trusted agent. We also note that the “authentication” inherent in the claim, if any, is associated with the step of “cryptographically binding,” which Appellants acknowledge is performed by private machine 13 of Levine. ((*See* Reply Br. 2 (“The private machine creates a hash of the document and cryptographically binds the timestamp with the hash value.”))) We note, further, that the claim does not set forth any limitations with respect to what the adjective “outside” may require.

In Appellants’ dictionary evidence cited in the Reply Brief, Appellants may have selected the third-listed definition for “agency” -- i.e., “A business or service authorized to act for others: *an employment agency.*” *American Heritage Dictionary of the English Language, Second College Edition* at 86 (1982). The first-listed definition for “agency” is “Action; operation.” *Id.* The second-listed definition is “A mode of action; means.” *Id.* Both the first and second-listed definitions are consistent with the Examiner’s reading of instant claim 13.¹

¹ The adjective “outside” also has several meanings, including “1. Acting, occurring, originating, or existing at a place beyond certain limits; outer; foreign: *outside assistance.* 2. Of, restricted to, or situated on the outside of an enclosure or boundary; external: *an outside door lock.*” *Id.* at 883.

On this record, we conclude that the Examiner's interpretation of the term in controversy is not unreasonable. We decline to infer Appellants' argued, limited meaning of "outside agency" into instant claim 13 so as to distinguish over the reference. Unlike proceedings in U.S. District Court, applicants for patent have the ability (and duty) to amend the claims, to the extent that support is found in the specification, to avoid the prior art. "An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process." *In re Zletz*, 893 F.2d 319, 322 (Fed. Cir. 1989).

CONCLUSION

Appellants having not shown the Examiner's decision to be in error, we affirm the rejection of claims 13-18 under 35 U.S.C. 102(e) as being anticipated by Levine.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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